

NEW JERSEY BROWNFIELD REDEVELOPMENT TASK FORCE

POLICY & LEGISLATIVE COMMITTEE

MINUTES OF MEETING HELD TUESDAY, SEPTEMBER 19, 2006
10:00 P.M. – 12:00 P.M.

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
TRENTON, NEW JERSEY
OFFICE OF SMART GROWTH LIBRARY - 7TH FLOOR

Committee Members Present—

Leah Healey - Public Member – Committee Chair
Dennis Toft – Public Member – Task Force Chair
Sally Dudley, Public Member – Environmental
Frances E. Hoffman – Office of Smart Growth, NJ Department of Community Affairs
Rose Smith – NJ Economic Development Authority
Erin Simone – NJ Department of Agriculture
Colleen Kokas – Site Remediation/Waste Management, NJ Department of Environmental Protection
Lauri Sheppard – NJ Redevelopment Authority

Cynthia Weiser – Recording Secretary, Office of Smart Growth, NJ Department of Community Affairs
Dan Reynolds – Council to the Task Force

Committee Members Not Present—

Talvin Davis – NJ Department of Transportation
William Mullen – Public Member – Labor and Trade

Other Attendees—

Chris Altomari, Stonybrook Millstone Watershed
Jonathan Bien, Tern Landing
Phyllis Bross, National brownfields Association
Mike Burke, SBT Group
Lucrecia Esposito, ENVIRON International Corp.
Anselm Fusco, Cherokee Northeast
Frank Janks, Intern, BRIT/OSG
Anus Kale, Tern Landing
Evan Mankoff, Louis Berger Group
Kate McDonnell, Assembly Majority Office
Erik Nielsen, Intern, BRIT/OSG
Kenneth Reynolds, NJBA

I. CALL TO ORDER & WELCOME—

The Chair welcomed the Committee and the members of the public and called the meeting to order at 10:06a.m.

II. ANNOUNCEMENT OF ADHERENCE TO OPEN PUBLIC RECORDS ACT—

Announcement of Adherence to Open Public Records Act was read.

III. PUBLIC COMMENTS—None.

IV. ROLL CALL—

Roll was called by Cynthia Weiser; a quorum was present.

V. APPROVAL OF MINUTES—

Minutes of the March 28, 2006 and May 23, 2006 meetings were voted on and passed.

VI. REPORTS FROM COMMITTEE MEMBERS—

- **Brownfields Manual** – ANJEC has updated their original 1999 Brownfields Manual. It will be available this week for the Environmental Commission Conference on August 28 at the Department of Environmental Protection (DEP).

VII. COMMITTEE BUSINESS—

- **Monitoring and Management of Classification Exception Areas, and Variance and Deed Restrictions:** The presentation at the June Policy and Legislative meeting raised concerns by Task Force members about the ability of one DEP staff person being able to keep up with the demand of maintaining and monitoring restrictions and engineering controls for the entire state. Managing this task well is important in preventing breaches or disturbances to engineering controls and making sure that knowledge of existing areas of contamination and exposure to contamination is kept at protective/safe levels.

A number of additional ways to deal with this issue were discussed.

- Planning/Zoning Board Check Lists: Much discussion ensued regarding checklists and communication with localities. A Cherry Hill Township planning board checklist was provided as an example to the Task Force members. Discussion followed on how the checklist might serve environmental engineering control issues. Notice requirements might be sent to planning officials in addition to the typical route of the clerk. It was noted that sites passing through the local planning board are not necessarily under an oversight program in the DEP.
Municipalities typically require that a checklist be submitted prior to an application being reviewed by planning or zoning boards. Applicants may be reminded that if there are DEP issues, they are to be well documented and brought forth prior to the application process. If any red flags are raised regarding environmental issues, the application issue would be submitted to the municipal engineer immediately.
- Bill S1708, which was recently passed by both houses of the legislature, requires notification of the local municipalities (planning board) and posting notices. A number of other bills also refer to notices to neighborhoods about existing contamination.
- **ACO/MOA:** The report on DEP policy regarding the use of oversight documents Administrative Consent Order (ACO) / Memorandum of Agreement (MOA) has been on the agenda for almost two years. It is the position of the Task Force that an MOA, rather than the strict constraints and penalties of the ACO, would be the document of choice for innocent entities in Brownfields redevelopment projects.
DEP reported at the last Task Force meeting, that there was movement on a plan to consider issuance of a policy on this matter. To date the Committee has received no information on this policy.
DEP will be contacted to determine the status of this proposal.
- **State Environmental Insurance Symposium:** (The recording secretary was remiss in failing to submit the report that the Director of Brownfields provided the Committee.) The Policy and Legislative chair reported that the symposium was a great success with an interesting format.

With 80 in attendance, 123 items of interest were brought to table, with the amount being reduced to ten very important issues. As a result a white paper will be issued that will make recommendations to the State on its findings.

- **Legislation:**

- *S1473 – Hazardous Discharge Funding Summary: (Changes funding limits for grants to local governments from hazardous discharge fund for site remediation):* This bill was sent to the governor, but it had not been signed to date. It corrected the wording so that the implementation of the program would reflect the legislature's intent.
- *ACR 195 – Constitutional Amendment to authorize use of dedicated Corporate Business Tax Revenues for funding development of land for recreation and conservation purposes.:* This bill, which the Task Force has been tracking, would add the use of these funds for the development of lands for recreation and open space purposes, and sets the initial percentage of the fund for such purposes at 15%, increasing to 32% in January 2016. Note: for members' information, the quote below is taken from the proposed constitutional amendment. The 15% was taken from the other uses of the Corporate Business Tax, such as for the UST and HDSRF and emissions equipment programs.

“for providing funding, including loans and grants, for the development of lands for recreation and conservation purposes, and to satisfy any payments relating to bonds, notes, or other obligations, including refunding bonds, issued by an authority or similar entity established by law to provide funding for the development of lands for recreation and conservation purposes. No more than five percent per year of the amount dedicated pursuant to this subparagraph (e) may be expended for program administrative costs of the State, its departments, agencies, or authorities for implementing the provisions of this subparagraph (e). Commencing January 1, 2016, thirty-two percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing funding, “

- *Hazardous Discharge Program:* Administrative aspects in the existing law are still being tracked to make sure that procedural issues are resolved.
- *Bills on Notice Requirements:* The Assembly adopted Bill A3257 in June but a variation of the bill (S2088) conflicted. Committee discussion suggested that the issue may be reintroduced again in September or possibly in the spring. The bill may result in a more lengthy process for a municipality to declare an area in need of redevelopment or it may result in more areas not qualifying for such a designation. It was recommended that DCA be asked to comment on the impact of the bill on pre-existing redevelopment areas.

Discussion ensued on the availability of reports on bills, where to obtain them, sharing costs if costs were involved. The Department of Agriculture representative offered to generate reports of this nature for the Task Force.

- **Port Site Incentives:** Discussion included the following issues:

The market for Brownfields redevelopment in the northern port areas is growing, with new industrial warehousing projects underway.

The 75% reimbursement program run by Commerce and Treasury, in consultation with DEP, will not significantly help the warehouse industry. The Committee has not been successful in getting information on what kind of federal taxes could be waived for these port sites. A joint pilot study being conducted by the NY/NJ Port Authority and NJEDA is examining port area project redevelopment issues, but it is still unclear what financial incentives will particularly help projects in these locations.

It is clear that environmental permitting issues are critical, and the pilot study, and DEP has entered into an MOU with the pilot project to help manage these concerns. Two suggestions were made: eliminating federal taxes on the project, and a promise of shorter clean up time or facilitated oversight review.

EDA will bring in a promotional packet (folders and collateral material) that has been distributed through a mass mailing.

- **Small Site Incentives:**

Issues specific to small sites were discussed. Due to the scale of the project, the small site owner is unlikely to benefit from the 75% reimbursement program.

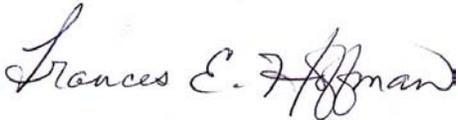
- **Community/Public:** A question was raised regarding incentives that a private property owner might be eligible for if the local municipality is involved with a redevelopment project. The response was that funding was available through HDSRF program as grants and loans, depending on the status (innocent or responsible party) of the owner, amount of owner's assets, or whether the owner or developer was a public or private entity.

- A question arose as to the status of a white paper by the NJ Chapter of the National Brownfields Association. The status is not known currently.

VIII. ADJOURNMENT—

Meeting was adjourned at 11:40 p.m.

Respectfully submitted,



Frances E. Hoffman
Secretary, New Jersey Brownfields Redevelopment Task Force



Cynthia Weiser
Recording Secretary
07/20/06

ACTION ITEMS:

Recommend to evaluate a planning board checklist approach to strengthen monitoring and management of engineering and institutional contacts in conjunction with the League of Municipalities and other organizations such as the Association of Local Planning Officials and ANJEC.

Recommend to DEP with respect to the proposed rules to include planning officials when the municipality is notified.

Obtain assistance from DCA in determining how to preserve the existing redevelopment areas in light of requirements proposed by Bill A3257 (**Revises procedures for the use of Eminent Domain in municipal redevelopment programs**).

Initiate evaluation of the promotion and support of clean-up and redevelopment of small sites (BRIT and DEP).

Recommend Task Force discussion of designation of redevelopment areas by municipalities.